

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Simon Allen, Jr.,)	
)	
Plaintiff,)	Civil Action No. 8:15-cv-504-RMG
)	
v.)	
)	ORDER
Special Agent Paul Lee, in his private)	
and official capacity; Special Agent)	
Earl Gilliam, in his private and official)	
capacity; RAC Scott Bailey, in his)	
private and official capacity;)	
Asst. U.S. Attorney William)	
J. Watkins, Jr., in his private and official)	
capacity; Probation Officer)	
Robert F. Woods, Jr., in his private)	
and official capacity; Courtroom)	
Deputy Pamela Brissey, in her private)	
and official capacity,)	
)	
Defendants.)	
)	

This matter is before the Court on the Report and Recommendation (“R&R”) of the Magistrate Judge (Dkt. No. 20) recommending that this Court summarily dismiss the case with prejudice and without service of process. The Court hereby adopts the R&R in whole.

Plaintiff filed suit on February 5, 2015, alleging that Defendants acted wrongfully in their handling of Plaintiff’s federal criminal case. (Dkt. No. 1). He requested to be “released immediately” as well as money damages of one million dollars in compensation and two million dollars in punitive damages with respect to each defendant. (*Id.*)

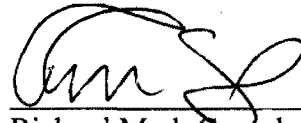
The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight, and the responsibility for making a final determination remains with this Court. *Mathews v. Weber*, 423 U.S. 261, 270–71 (1976). The Court makes a *de novo* determination of those portions of the R&R to which specific objection is made and may “accept,

reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1). Here, the Magistrate Judge has competently reviewed the facts alleged by Plaintiff and the applicable law and determined that the complaint lacks an arguable basis. The Court agrees. *See Neitzke v. Williams*, 490 U.S. 319, 325 (“an *in forma pauperis* complaint “is frivolous [under 28 § 1915(d)] where it lacks an arguable basis either in law or in fact”); *Denton v. Hernandez*, 504 U.S. 25, 25 (1992).

Plaintiff filed objections to the R&R on April 13 and 15, 2015. (Dkt. Nos. 22, 24). The first set of objections reiterate the claims made in the Complaint – that evidence presented at his trial was fabricated, that the prosecutor should have prosecuted others besides Plaintiff, that the state judge took too much time to hear his motion to rescind his guilty plea, and that his public defender should have introduced exculpatory evidence. To the extent Petitioner fails to point to a specific error in the R & R and simply makes conclusory objections, the Court need not conduct a *de novo* review. *Smith v. Washington Mut. Bank FA*, 308 Fed.Appx. 707, 708 (4th Cir. 2009). The Court sees no alleged facts, either in the Complaint or in the objections, that would support a cause of action by Plaintiff. The supplementary objections (Dkt. No. 24) consist of disputes regarding Plaintiff’s benefits he has received, or not received, from the U.S. Department of Veterans Affairs, which is not related to his Complaint in this Court. The letter is also addressed to the VA. (*Id.*)

The Court has reviewed the R&R, the full administrative record in this matter, the relevant legal authorities, and Plaintiff’s objections to the R&R. It hereby ADOPTS the R&R as the order of the Court and DISMISSES the Complaint with prejudice and without service of process.

AND IT IS SO ORDERED.

A handwritten signature in black ink, appearing to read 'R. Gergel', written over a horizontal line.

Richard Mark Gergel
United States District Court Judge

April 20, 2015
Charleston, South Carolina